

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECOND AMENDMENT FOUNDATION,
et al.,

Plaintiffs,

v.

BUREAU OF ALCOHOL, TOBACCO,
FIREARMS, AND EXPLOSIVES, *et al.*,

Defendants.

No. 3:21-cv-0116-B

**JOINT STATUS REPORT AND PROPOSED SCHEDULE
FOR FURTHER PROCEEDINGS**

Pursuant to the Court's order of December 30, 2022, the parties have conferred and respectfully submit the following status report.

On May 21, 2021, defendants (with plaintiffs' consent) moved to stay proceedings in this matter in light of the President's announcement that the United States Department of Justice would be issuing "a proposed rule to make clear when a device marketed as a stabilizing brace effectively turns a pistol into a short-barreled rifle subject to the requirements of the National Firearms Act." ECF No. 24. The Court granted the motion on May 24, 2021, and held all further proceedings in abeyance. ECF No. 25.

In June 2021, as projected, defendants published in the Federal Register a proposed rule on "Factoring Criteria for Firearms With Attached 'Stabilizing Braces,'" 86 Fed. Reg. 30,826 (June 10, 2021). The proposed rule provided for a 90-day public comment period, during which the agency received 211,564 comments. On January 13, 2023, defendants submitted a final rule to the Federal Register. *See* U.S. Dep't of Justice, *Justice Department Announces New Rule to Address Stabilizing Braces*,

Accessories Used to Convert Pistols into Short-Barreled Rifles (Jan. 13, 2023), <https://www.justice.gov/opa/pr/justice-department-announces-new-rule-address-stabilizing-braces-accessories-used-convert>. The final rule is scheduled to be published on January 31, 2023. *See* National Archives, *Factoring Criteria for Firearms with Attached Stabilizing Braces* (last visited Jan. 30, 2023), <https://www.federalregister.gov/public-inspection/2023-01001/factoring-criteria-for-firearms-with-attached-stabilizing-braces>.

Accordingly, the parties respectfully propose that the Court lift the stay in this matter on February 17, 2023, and adopt the following deadlines for further proceedings in this case:

- Plaintiffs will file an amended complaint on February 17, 2023.
- Plaintiffs will file a motion for a preliminary injunction, if any, on March 3, 2023.
- Defendants will file a response to any motion for a preliminary injunction on March 24, 2023.
- Plaintiffs may file a reply in support of any motion for a preliminary injunction on April 7, 2023.
- Defendants' deadline to answer or otherwise respond to plaintiffs' amended complaint is extended until either (i) 21 days after the Court resolves any motion for a preliminary injunction; or (ii) March 24, 2023, in the event that plaintiffs do not file a motion for a preliminary injunction.

The parties appreciate the Court's consideration.

Dated: January 30, 2023

Respectfully submitted,

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Principal Deputy Assistant Attorney General

BRIGHAM J. BOWEN
Assistant Branch Director

/s/ Jody D. Lowenstein
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CERTIFICATE OF CONFERENCE

The parties conferred and have agreed about the relief requested herein.

/s/ Jody D. Lowenstein
JODY D. LOWENSTEIN
Trial Attorney
U.S. Department of Justice

CERTIFICATE OF SERVICE

On January 30, 2023, I electronically submitted the foregoing document with the Clerk of Court for the U.S. District Court, Northern District of Texas, using the Court's electronic case filing system. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Jody D. Lowenstein
JODY D. LOWENSTEIN
Trial Attorney
U.S. Department of Justice